



NEW YORK UNIVERSITY
A private university in the public service

KING JUAN CARLOS I OF SPAIN CENTER

NEW YORK, N.Y. 10012-1098

September 26, 2007

Mr. Brian Lamb
C-SPAN
400 N Capitol, NW
Suite 650
Washington, DC 20001

Dear Brian:

One of your recent programs caused me to make a note to send you a copy of a talk I gave a few years ago at the LBJ Library in Texas on the history of the Presidential Recordings and Materials Preservation Act of 1974.

I have not forgotten my goal of persuading of Nancy Pelosi and all the other living former Speakers of the House of Representatives to gather for a symposium under the banner of the John Brademas Center for the Study of Congress and of your gracious offer to cover such a session.

I'll keep you posted!

Very best wishes.

Sincerely,

President Emeritus

REMARKS OF [REDACTED]

[REDACTED]

AT A SYMPOSIUM ON THE FUTURE OF PRESIDENTIAL LIBRARIES
MARKING THE [REDACTED] ANNIVERSARY OF THE DEDICATION OF
THE LYNDON BAINES JOHNSON LIBRARY

LBJ Library, Austin, Texas
Monday, November 26, 2001

There are several reasons I was pleased to accept Harry Middleton's gracious invitation to come to Austin for the celebration of the 30th anniversary of the dedication of the LBJ Library at the University of Texas.

In the first place, like many of you here today, I was present at that remarkable event and remember it still.

Second, I'm glad to add my own to the many tributes being paid to Harry Middleton on his splendid stewardship of this important library. All students of the American presidency, indeed, of modern American history, are in Harry's debt. Professor Robert D. Schulzinger of the University of Colorado told participants in a 1994 Congressional Papers Conference sponsored by Northwood University and Margaret Chase Smith Library in Portland, Maine that the Lyndon B. Johnson Library, with the Gerald R. Ford Library were "two jewels in the Presidential Library system, unquestionably the best and best run archives anywhere in the United States [with] superb staff, superbly indexed collections, and sufficient funds to constantly expand and improve the organization of their holdings...."¹

Third, I am happy to have the chance to see so many old friends and colleagues—Mrs. Johnson, Jake Pickle, Liz Carpenter, Jack Valenti, Bob Hardesty, Tom Johnson and Walt and Elspeth Rostow among them. I'm sure I've failed to mention other friends. All I can say is that I'm not running for Congress in Austin!

And, of course, as one who served in the House of Representatives throughout the years that Lyndon Johnson was Senate Majority Leader, Vice President and President of the United States, I voice my own admiration for his extraordinary contributions to our country.

I was fortunate enough during the Johnson Presidency to have been a member of one of the congressional committees, House Education and Labor, that was particularly active in

¹ Proceedings: Congressional Papers Conference: The Preservation, Use, and Accessibility of the Personal Papers of Members of Congress, September 16 and 17, 1994, Portland, Maine, sponsored by Northwood University and Margaret Chase Smith Library, p.61

writing much of the legislation that embodied—and embodies—Lyndon Johnson's Great Society.

The other reason I am honored to be with you this week is to offer a modest contribution to the discussion of Presidential Libraries.

And I am especially glad that opening this panel is the eminent scholar, Michael Beschloss, for whose impressive studies of President Johnson, Taking Charge and Reaching for Glory, all of us interested in American history must be grateful. Perhaps I should not, however, draw attention to the transcript of one of the tapes of which I myself am, shall we say, the target!

So let me get to it.

After President Gerald Ford, newly installed in office, announced, on September 8, 1974, that he had granted an unconditional pardon to Richard Nixon, for any crimes he may have committed, the Ford White House also released the letter of September 6th from Mr. Nixon to Arthur F. Sampson, then Administrator of the General Services Administration, concerning the papers and tape recordings of the Nixon presidency.

This letter, you will recall, stipulated that Mr. Nixon would retain control over his papers and the tape recordings under conditions that would have required destruction of the tapes at the time of Nixon's death or on September 1, 1984—that is to say, ten years later—whichever event first occurred.

Moreover, the letter, to which Sampson agreed, provided that after five years, Nixon would be free to order the destruction of any of the tapes.

On learning of this agreement, I must tell you that I was outraged. Why?

I note, first, that I was at the time a member (from [REDACTED], by appointment of [REDACTED] of the National Historical Publications and Records Commission, serving with Senator [REDACTED] of Rhode Island, Supreme Court Justice [REDACTED] and, among others, some eminent American historians. Chairing the Commission was James B. "Bert" Rhodes, Archivist of the United States.

The Commission met quarterly to decide on grants to scholars for publishing materials on American history.

Second, I had written a little history myself, in the form of a Ph.D. dissertation at Oxford, later published in Barcelona, on the anarcho-syndicalist movement in Spain from the mid-1920s through the first year of the Spanish Civil War.

Third, I had no particular respect for Richard Nixon either as a person or President. For I was well aware of the nature of his Congressional campaigns in California and I had served on the staff of Adlai Stevenson during his 1955-56 presidential campaign.

Moreover, I had been named, to the jealous reaction of my Democratic colleagues in the House of Representatives, to Nixon's "White House Enemies List."

There was a final reason for my response to the deal between Nixon and GSA. I thought, "Nazis burn books; Americans don't burn books!"

So I approached another distinguished Texan, then chairman of the House Government Operations Committee, which had jurisdiction over GSA, Jack Brooks, and said, "Jack, what're you going to do about this?"

Jack replied, "John, this is September of an election year. I don't have time to do anything."

I responded, "Jack, I'm chairman of the most inconsequential subcommittee in the U.S. House of Representatives, the [REDACTED]. Our Subcommittee told Members how many Capitol Hill calendars they could send to their constituents. But the Subcommittee gave me a color of jurisdiction and Jack said, "You've got it!"

My Subcommittee colleagues and I quickly coordinated our efforts with Senator Gaylord Nelson of Wisconsin, who was taking the lead in the Senate on legislation to abrogate the Nixon-Sampson agreement. Because of House rules on Committee jurisdiction, however, our initial proposal in my Subcommittee could not include such language.

On September 30 and October, 1974, I conducted hearings in the [REDACTED] on a bill I had introduced jointly with the ranking Republican on the Subcommittee, Orval Hansen of Idaho, to establish a National Commission to study issues dealing with the disposition and preservation of records and documents of Federal officials.²

The Subcommittee also heard testimony on related bills, introduced by Representatives Jonathan Bingham of New York and Thomas A. Luken of Ohio, directing that the "public documents" of all elected Federal officials be turned over to the Federal Government, while Representative John F. Sieberling of Ohio introduced a bill to include the records only of the President and Vice President.

Testifying in support, in whole or in part, of these proposals, were archivists, historians, legal scholars and John S.D. Eisenhower, son of President Eisenhower.

Meanwhile, in the Senate, the redoubtable Sam Ervin of North Carolina was also moving, and on September 26, 1974, the Committee on Government Operations, which Senator Ervin chaired, unanimously, Democrats and Republicans joining, and without having conducted any hearings, reported a bill, S.4016, specifically directed to killing the Nixon-Sampson deal and mandating ownership of the Nixon materials by the Federal Government.

The Senate passed the Ervin Bill on October 4th; it was referred, on October 7, 1974, to the House Administration Committee and to the Subcommittee I chaired.

² See The "Public Documents Act": Hearings before the Subcommittee on Printing of the Committee on House Administration, House of Representatives, Second Session, on H.R.16902 and Related Legislation (The Disposition and Preservation of Documents of Federal Officials), September 30 and October 4, 1974

Because of business in the House arising from presidential vetoes, the Senate-passed bill could not be considered by the House before the election recess on October 17th. In a statement on October 16th, I assured the House of my "intention to bring this bill to the attention of the Subcommittee the first week the House reconvenes in November".

In the meantime, I was engaged in correspondence (October 9, 1974) with Philip W. Buchen, Counsel to President Ford, seeking "assurances that the tapes and related materials would not be destroyed, damaged or removed from Washington during that time".

Receiving as of October 16th no reply from Mr. Buchen and, more to the point, responding to a Nixon legal brief asserting that a President's papers are his private property, I joined Senators Ervin, Gaylord Nelson and Jacob Javits and House Administration Committee Chairman Wayne Hays in filing, on November 11th, an amici curiae memorandum in the [REDACTED] My colleagues and I urged the Court, by maintaining an existing stay, to assure protection of the materials until Congress had completed action on the relevant pending legislation.

On November 20, joined by both Democratic and Republican members of the [REDACTED] Subcommittee, I introduced [REDACTED] which included the language both of the Senate-passed bill nullifying the Nixon-Sampson agreement and of my Subcommittee bill to establish a national commission to study issues involving the disposition of records of Federal officials.

On November 26th, the [REDACTED] Subcommittee marked up the Senate-passed bill and added a title authorizing the public documents commission. By a vote of 20 to 0, the full Committee on House Administration then favorably reported the measure.

On December 3, 1974, the House of Representatives, acting under suspension of the rules, approved the bill; on December 9th, the Senate agreed, with some technical amendments, to the House amendments; the House immediately accepted the Senate bill and technical amendments; and the bill went to the White House.

On December 19, 1974, President Ford signed into law the Presidential Recordings and Materials Preservation Act, which, as I have said, nullified the Nixon-Sampson agreement and declared that all the Nixon papers and tape recordings belonged to the people of the United States.

This is, of course, the statute that makes possible the occasional publication of transcripts of the Nixon tapes.

I cannot here resist recalling that the title of a George Will column in the Washington Post in 1977 was "The Nixon Tapes Must Be Destroyed."

The 17-member National Study Commission on Records and Documents of Federal Officials, created by the bill, was chaired by former Attorney General Herbert Brownell, and produced its final report on March 31, 1977.

The most important result of the Commission's report was the Presidential Records Act of 1978 which, as you know, now governs the papers of Presidents. They can no longer

claim title to their papers. President Reagan is the first president to be affected by the '78 statute. I was one of the co-sponsors of the measure.

However, as everybody here also knows, in an Executive Order issued on November 1 of this year, President Bush seeks, in the minds not only of several historians and archivists but of some Republican Members of Congress as well, to unravel the 1978 Act.

Republican Congressman Stephen Horn of California, who chairs a subcommittee on government reform, at a hearing on November 6, urged the President to rescind the Executive Order while another California Republican, Doug Ose, warned, "This new order undercuts the public's right to be fully informed about how its government operated".

Richard Reeves, author of the recent book, President Nixon: Alone in the White House, in a New York Times Op-Ed essay (November 16, 2001) was harsher still: "With a stroke of the pen on Nov. 1, President Bush stabbed history in the back and blocked Americans' right to know how presidents (and vice presidents) have made decisions. Executive Order 13223 ended more than 30 years of increasing openness in government".

The reason for the order, Reeves suggests: "...There may be Reagan-era records that could be embarrassing to some men and women now back in power with a second Bush administration.

"Perhaps even more pertinent", Reeves adds, "they may not want to spend their retirements 12 years after George W. Bush leaves office, defending the wartime decisions they are making now".

I shall not here recite the attacks levied on the Bush order by the Washington Post, Los Angeles Times, San Francisco Chronicle, Christian Science Monitor and the New York Times but these major American dailies have been unsparing in their criticism.

In any event, most of you here are far better informed than I about presidential papers and libraries and I have little doubt will have your own comments on this latest development.

Accordingly, I would like to make a few observations about the papers of former Senators and Congressmen.

Let me speak personally.

My own papers cover 22 years as a Member of the House of Representatives.

I served with six Presidents—three Republicans: Eisenhower, Nixon and Ford; and three Democrats: Kennedy, Johnson and Carter. During my last four years, I was, by appointment of Speaker Tip O'Neill, [REDACTED]

During my service as [REDACTED] I joined Speaker O'Neill, Senate Majority Leader Robert C. Byrd, House Majority Leader Jim Wright, Senator Hubert H. Humphrey while he lived and the other Democratic Leaders of Congress for breakfast nearly every other Tuesday at the White House with President Carter and Vice President Mondale.

I hope to make use of my notes, over two decades later, for a study of how a President deals with the Leaders of his own party in Congress.

This month my papers are being brought from a Library of Congress warehouse to New York University to be processed for, I hope, scholarly use.

On the admonition of my Oxford classmate and longtime friend, the eminent historian of Russian culture and distinguished Librarian of Congress, James H. Billington, I hope to use my papers as the seed for creating, at New York University, a Center for the Study of Congress.

My philosophical motive for wanting to establish a Center for serious academic attention to the Congress of the United States is straightforward.

In a separation-of-powers constitutional system like ours with, compared to European parliamentary arrangements, relatively undisciplined political parties, when it comes to the making of national policy, Congress counts!

This is a lesson that President George W. Bush is learning daily.

So I want to establish a center in New York City that will have two principal dimensions: first, to be a place where scholars can engage in research on and study of Congress as a policy-making institution; and second, as a place to which, for conferences, lectures and symposia, to bring practitioners: Senators and Congressmen, current and former ; Congressional staffers; persons from the Executive branch; scholars; journalists; and parliamentarians from other countries.

For as David McCullough told a Joint Session of Congress in 1989, "Two hundred years after the creation of Congress we have only begun to tell the story of Congress—which, of course, means the opportunity for those who write and who teach could not be greater".³

Having told you of my particular aspiration, I want now to say that I believe the time has come for the Federal Government to fashion a more rational, orderly public policy for dealing with the papers of Senators and Congressmen.

Setting aside the matter of my own papers, I here note another observation of David McCullough in his essay, Time and History on the Hill (1989): "We need to know more about Congress because we need to know more about leadership. We need to know more about Congress because we can never know enough about human nature. Above all, we need to know more about Congress because we are Americans. We believe in governing ourselves".

Added Karen Paul of the Senate Historical Office, "Improving congressional documentation will help us all to do so".⁴

³ Cited in Proceedings, *ibid*, p.28

⁴ Cited by Karen D. Paul, Archivist, US Senate Historical Office, "The Future of Congressional Collections: The Congressional Documentation Project, Proceedings, *ibid*, p.100

Certainly when I was in Congress, my colleagues and I received no guidance whatsoever about how properly to keep and organize our papers for possible future deposit in a university or other archive.

I was, accordingly, pleased to learn, in preparing to come to Austin, of the existence of the Congressional Papers Forum of the American Society of Archivists, a group that met only last August, fittingly enough, in the Lyndon B. Johnson Room of the Capitol in Washington.⁵

Indeed, the meeting last summer was the fifth such gathering, with the first in 1978 a Conference on the Research, Use and Disposition of Senate Papers.

In 1985 several congressional archivists met at Harpers Ferry and, under the sponsorship of the Dirksen Center and the National Historical Publications and Records Commission, produced the Congressional Papers Project Report, which set forth criteria for Members to use in choosing a repository as well as guidelines for repositories to use in determining which Members' papers to collect.

A Task Force of this Congressional Papers Roundtable members in 1989 produced a report on Congress, edited by Karen Paul and published in 1992.

In 1994, in Portland, Maine, Northwood University and Margaret Chase Smith Library conducted a conference on congressional papers, the proceedings of which represent another advance in this field.

In its Third Report to Congress (December, 2000), the Advisory Committee on the Records of Congress focused on three subjects: the preservation of Members' papers, developing electronic records in Congress, and providing access for researchers to archival information on Congress.⁶

Here one must note the establishment at the National Archives, under the impressive leadership of an alumnus of the LBJ Library, Michael Gillette, of the Center for Legislative Archives.

I have not time here to review all the recommendations in the Third Report but its publication only last December caused the Congressional Papers Roundtable last summer to give particular attention to two subjects of the Third Report of the Advisory Committee on the Records of Congress: records management in Members' offices and the development of public policy research centers.

The first two Advisory Committee Reports, I observe, were directed to congressional committee records and records of congressional support agencies.

The Third Report focuses on Members' papers and, in respect of them, offers three basic recommendations.

⁵ Congressional Papers Forum: The Third Report of the Advisory Committee on the Records of Congress, Society of American Archivists, Congressional Papers Roundtable, August 29, 2001, Washington, D.C.

⁶ Advisory Committee on the Records of Congress: Third Report, compiled by Karen D. Paul, December 31, 2000 (S.PUB.106-52)

First, Members should be encouraged, in the interest of consistency, to follow criteria, guidelines, for preserving their collections. Grant-making agencies are in turn urged to take into account the implementation of these criteria in evaluating requests for grants for preserving congressional papers.

I call your attention in this respect to the September 2000 report, Closing a Congressional Office: A Guide to the Disposition of Official Papers and Records, prepared by the Office of the Clerk of the United States House of Representatives, Jeff Trandahl.

This document gives Members specific advice on how to close a congressional office, including guidelines for disposal of files, for selection of a repository, preparing a deed of gift and tips for packing and shipping.

Indeed, the second recommendation in the advisory Committee's Third Report is that Members of Congress, before they retire or after six years of service, begin to earmark specific resources to strengthen the management of their records before they are moved. Members should either hire a staff archivist or share one with another office.⁷

The third recommendation of the Advisory Committee endorses the development of statewide public policy research centers with a strong archival component.

As this symposium is devoted to the subject of presidential libraries, I shall go no further on the question of developing sensible approaches to the handling and disposition of papers of Members of the United States Senate and House of Representatives. All of us interested in the history of our country have a lot of work to do!

Certainly it must be clear that in fashioning a great system of presidential libraries, like the magnificent one in which we this week meet, we should find inspiration as well for attending to the papers of the elected representatives of the American people in the Congress of the United States.

As it happens, the remarkable American leader whose name this library bears was intimately acquainted with both ends of Pennsylvania Avenue.

⁷ Ibid. p.vii